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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,254	08/29/2001	Ulrich Wiedemann	NHL-HOL-55	6208

432 7590 07/21/2003

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EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
	3721

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

NK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/942,254	WIEDEMANN, ULRICH	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sameh H. Tawfik	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 28 May 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 10-30 is/are pending in the application.
- 4a) Of the above claim(s) 10-18 and 27-30 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19,23 and 24 is/are rejected.
- 7) Claim(s) 20-22,25 and 26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of invention IV (claims 19-26) in Paper No. 13 is acknowledged. The traversal is on the ground(s) that inventions I-IIIV are so closely related to one another that their examination could be most efficiently and effectively carried out in a single application. This is not found persuasive because the examine still believes that inventions I-IIIV are different inventions for the reasons provided in paper # 12.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pesente (5,012,727) in view of Wijts (4,773,321).

Pesente discloses a product stabilizing section comprising a plurality of spray (3-6) being configured to be disposed above the containers to permit spraying of containers from above the containers (Fig. 1); the plurality of spray arrangements comprising a first spray arrangements (3) to receive containers from the inlet arrangement (Fig. 1) and to be disposed to heat the beverage

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in containers with a first heated spray of liquid having a predetermined first temperature to bring the beverage in containers to a temperature below the pasteurization temperature of the beverage (column 2, lines 43-45); a second spray arrangements (4) being configured to stabilize the beverage in containers with a second heated spray liquid having a predetermined second temperature (column 2, lines 50-55); a third spray arrangements (5) to cool the beverage in containers and bring the beverage in containers to a temperature below the second temperature (column 3, lines 1-4); discharge containers through the outlet (Fig. 1). Pesente does not disclose a housing comprising a roof arrangement nor the roof being configured to receive the plurality of spray arrangements. However, Wijts discloses a similar product stabilizing section comprising a housing comprising a roof arrangement and the roof being configured to receive the plurality of spray arrangements and comprises a single cover arrangement and disposed above the plurality of spray arrangements and configured to cover substantially all of the spray arrangements; the roof arrangements has a length and width (Figs. 1 and 2; via chamber 18).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pesente's stabilizing section by having a housing comprising a roof arrangement and the roof being configured to receive the plurality of spray arrangements comprises a single cover arrangement and disposed above the plurality of spray arrangements and configured to cover substantially all of the spray arrangements; the roof arrangements has a length and width, as suggested by Wijts, in order to <sup>produce a</sup> ~~product the~~ stabilizing section from the outside atmosphere.

***Allowable Subject Matter***

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Claims 20-22, 25, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Panella 6142065, Mendez 6135015, Egli 5896727, Vokins 5178841, Foti 5152968, Hatanaka 4797255, Young 4457892, and Becker 4441406 disclose different type of stabilizing section.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST.  
July 16, 2003



EUGENE KIM  
PRIMARY EXAMINER